



PATENT  
Customer No. 22,852  
Attorney Docket No. 06530.0067-02

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
Ronald Adams et al. ) Group Art Unit: 3739  
)  
Application No.: 10/724,740 ) Examiner: FLANAGAN, BEVERLY  
) MEINDL  
Filed: December 2, 2003 )  
)  
For: CONTROLLABLE ENDOSCOPIC ) Confirmation No. 2077  
SHEATH APPARATUS AND )  
RELATED METHOD OF USE )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Assignee, Boston Scientific Scimed, Inc., duly organized under the laws of the state of Minnesota and having its principal place of business at One Scimed Place, Maple Grove, Minnesota 55311-1566, through its attorneys, represents that it is the assignee of the entire right, title and interest in and to the above-identified application, Application No. 10/724,740, filed December 2, 2003 for CONTROLLABLE ENDOSCOPIC SHEATH APPARATUS AND RELATED METHOD OF USE as indicated by an Assignment (from Ronald Adams, Michael Banik, and Charles Pugsley to Scimed Life Systems, Inc.) duly recorded in the United States Patent and Trademark Office at Reel 9834, Frame 0088 on March 12, 1999 in parent Application No. 09/267,109, and a Change of Name (from Scimed Life Systems, Inc. to Boston Scientific Scimed, Inc.) as indicated by the following documents provided herewith: Articles of Merger of Boston

Scientific Scimed, Inc. with and into Scimed Life Systems, Inc. (1 page); Plan of Merger of Boston Scientific Scimed, Inc. into Scimed Life Systems, Inc. (1 page); and Agreement and Plan of Merger (2 pages). Assignee, Boston Scientific Scimed, Inc., further represents that it is the assignee of the entire right, title and interest in and to U.S. Patent Nos. 6,179,776 and 6,761,685 as indicated by the same documents duly noted above.

To obviate a double patenting rejection, assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 6,179,776 and 6,761,685. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any of the prior patents, as presently shortened by any terminal disclaimer, in the event that any of the prior patents later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a

reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is being filed with this disclaimer.


If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to Deposit Account No. 06-0916

The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 19, 2005

By:   
Barbara E. McCurdy  
Reg. No. 32,120

Attachments: Articles of Merger of Boston Scientific Scimed, Inc. with and into Scimed Life Systems, Inc. (1 page); Plan of Merger of Boston Scientific Scimed, Inc. into Scimed Life Systems, Inc. (1 page); and Agreement and Plan of Merger (2 pages).

4I-1170



**ARTICLES OF MERGER OF  
BOSTON SCIENTIFIC SCIMED, INC.  
WITH AND INTO  
SCIMED LIFE SYSTEMS, INC.**

Pursuant to Minnesota Business Corporation Act, Section 302A, the undersigned, Boston Scientific Scimed, Inc., a Minnesota corporation ("BSS"), and Scimed Life Systems, Inc., a Minnesota corporation ("Scimed Life"), hereby adopt the following Articles of Merger for the purpose of merging BSS with and into Scimed Life, with Scimed Life being the surviving corporation.

1. The Agreement and Plan of Merger between BSS and Scimed Life dated as of December 15, 2004 (the "Merger Agreement"), as required by Minnesota Business Corporation Act, Section 302A.615, subdivision 1, is attached hereto as Exhibit I.

2. The Board of Directors and sole shareholder of BSS approved the Merger Agreement in a joint written action dated as of December 15, 2004 pursuant to Minnesota Business Corporation Act, Section 302A.613.

3. The Board of Directors and all of the shareholders of Scimed Life approved the Merger Agreement in a joint written action dated as of December 15, 2004 pursuant to Minnesota Business Corporation Act, Section 302A.613.

4. The name of the surviving corporation shall be Boston Scientific Scimed, Inc.

5. The merger shall be effective upon the later of 12:01 a.m. on January 1, 2005 or the filing of these Articles of Merger with the Secretary of State of the State of Minnesota.

IN WITNESS WHEREOF, BSS and Scimed Life have caused these Articles of Merger to be executed by their respective officers thereunto duly authorized this 22 day of December, 2004.

BOSTON SCIENTIFIC SCIMED, INC.

By: \_\_\_\_\_

Paul A. LaViolette  
Chief Executive Officer and President

SCIMED LIFE SYSTEMS, INC.

By: \_\_\_\_\_

Paul W. Sandman  
Chief Executive Officer

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Exhibit A

PLAN OF MERGER  
OF  
BOSTON SCIENTIFIC SCIMED, INC.  
INTO  
SCIMED LIFE SYSTEMS, INC.

1. Scimed Life Systems, Inc. ("Scimed Life") is a business corporation whose jurisdiction of organization is the State of Minnesota. Boston Scientific Scimed, Inc. ("BSS") is a business corporation whose jurisdiction of organization is the State of Minnesota.
2. BSS (the non-surviving corporation) hereby merges with and into Scimed Life (the surviving corporation) pursuant to the provisions of Section 302A.601 of the Minnesota Business Corporation Act.
3. The separate existence of BSS shall cease upon the effective date of the merger pursuant to the provisions of the Minnesota Business Corporation Act, and Scimed Life shall continue its existence as the surviving corporation pursuant to the provisions of the Minnesota Business Corporation Act.
4. The name of the surviving corporation shall be Boston Scientific Scimed, Inc.
5. The merger described herein shall be effective (the "Effective Time") upon the later of 12:01 a.m. on January 1, 2005 or the filing of the Articles of Merger with the Secretary of State of the State of Minnesota.
6. The 4,919,847 shares of common stock, \$.01 par value, of BSS issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for 628 validly issued, fully paid and nonassessable shares of common stock, \$.05 par value of the surviving corporation, and a new certificate shall be issued representing such shares.
7. The directors of BSS immediately prior to the Effective Time shall be the directors of the surviving corporation, and the officers of BSS immediately prior to the Effective Time shall be the officers of the surviving corporation.
8. This plan may be terminated and the merger abandoned by the boards of directors of Scimed Life and BSS at any time prior to the Effective Time.
9. The officers of each of BSS and Scimed Life are authorized, empowered, and directed to take any and all actions that, in their discretion, are necessary to consummate the transactions contemplated by the Plan of Merger or which may be in any way necessary or proper to effect such merger.

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## EXHIBIT I

## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Merger Agreement") is made and entered by and between Scimed Life Systems, Inc., a Minnesota corporation ("Scimed Life"), and Boston Scientific Scimed, Inc., a Minnesota corporation ("BSS"), as of the 15th day of December, 2004.

WHEREAS, Boston Scientific Corporation, a Delaware corporation ("BSC"), is the sole shareholder of BSS and holds 4,919,847 of the outstanding shares of common stock of BSS;

WHEREAS, BSC and Boston Scientific Wayne Corporation, a New Jersey corporation and a subsidiary of BSC ("Wayne"), are the shareholders of Scimed Life, with BSC holding 10,000 of the outstanding shares of common stock of Scimed Life and Wayne holding 354 of the outstanding shares of common stock of Scimed Life;

WHEREAS, BSC, Wayne, BSS and Scimed Life desire that, following the effective time of the merger, BSC shall hold 10,628 of the outstanding shares of common stock of the surviving corporation and Wayne shall hold 354 shares of common stock of the surviving corporation;

WHEREAS, the parties intend that the merger contemplated hereby shall be a tax-free reorganization under Sections 368(a)(1)(A) and 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended, and that this Merger Agreement shall constitute a plan of reorganization;

WHEREAS, the respective boards of directors of BSS and Scimed Life have, by resolutions duly adopted, determined that a merger of BSS with and into Scimed Life (the "Merger") in accordance with the terms of this Merger Agreement and the applicable provisions of the Minnesota Business Corporation Act, as amended, is in the best interests of each such party and its respective shareholders; and

WHEREAS, 100% of the shareholders of each of BSS and Scimed Life have approved and adopted the terms of this Merger Agreement and the Merger;

NOW, THEREFORE, the parties hereto agree as follows:

1. Merger. The Merger shall take effect in accordance with the plan of merger, attached hereto as Exhibit A (the "Plan of Merger"), and incorporated into this Merger Agreement.
2. Governing Law. The internal law, without regard for conflicts of laws principles, of the State of Minnesota will govern all questions concerning the construction,

validity and interpretation of this Merger Agreement and the performance of the obligations imposed by this Merger Agreement.

3. Assignment. This Merger Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except that neither this Merger Agreement nor any of the rights, interests or obligations hereunder may be assigned by any party hereto without the prior written consent of the other party hereto.

4. Amendment and Waiver. The parties may, by written agreement, waive compliance with or modify, amend or supplement any of the covenants or agreements contained in this Merger Agreement.

5. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, or mailed by first class mail, return receipt requested, or when receipt is acknowledged by return telecopy if telecopied, to the address appearing on the corporate records of each of the parties hereto (or to such other address as a party may designate by notice to the other).

6. Counterparts. This Merger Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be duly executed as of the day and year first above written.

BOSTON SCIENTIFIC SCIMED, INC.

By: 

Paul A. LaViolette  
Chief Executive Officer and President

SCIMED LIFE SYSTEMS, INC.

By: 

Paul W. Sandman  
Chief Executive Officer

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

DEC 22 2004

  
Secretary of State